

21 C.J.S. Courts § 172

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Courts

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V. Rules of Practice and Procedure

B. Operation and Effect of Court Rules

§ 172. Construction of court rules—Applicability of canons of statutory construction, generally

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

- West's Key Number Digest, [Courts](#)  85(2), 85(3)

Rules of court are subject to rules of statutory interpretation; the court must approach a court rule as though it had been drafted by the legislature and construe the words of a rule according to their ordinary sense and give effect to each word, phrase, and clause.

Rules of court are subject to the rules of statutory interpretation,¹ and a court applies familiar canons of statutory construction to interpret court rules.² The test to determine whether a statute is mandatory or directory applies also to rules of practice.³ As with questions of statutory construction, the interpretation of court rules of procedure is a legal question for a court.⁴

A court should construe the words of a rule according to their ordinary sense and commonly attributed meaning.⁵ The primary objective in interpreting a court rule is to ascertain and give effect to the drafters' intent,⁶ which is best indicated by the rule's language, under its plain and ordinary meaning,⁷ particularly if the rule is free of ambiguity and expresses a clear and definite meaning.⁸ In interpreting a supreme court rule, the court must ascertain the drafters' intent from a consideration of the entire scheme, its nature, its object, and the consequences resulting from different constructions,⁹ and the court must give effect to each word, phrase, and clause.¹⁰

If the language is susceptible of more than one interpretation, however, the court may look beyond the language to consider the rule's purpose.¹¹ The court may also look to the rule's context, the subject matter, the historical background, the effects and consequences, and its spirit and purpose.¹² Although courts interpret statutes and rules of procedure in such a way that


does not unduly restrict or expand their coverage beyond their intended scope,¹³ a court should not construe a supreme court rule in a manner that would lead to consequences that are absurd, inconvenient, or unjust.¹⁴ The court should employ a liberal construction of the rules and, to that end, should disregard procedural errors that do not affect the substantial rights of the parties.¹⁵ Furthermore, court rules should be construed so as to promote rather than defeat justice.¹⁶

The rule of statutory construction that identical words used in different parts of the same act are intended to have the same meaning also applies to the interpretation of rules of procedure.¹⁷ The statutory construction canon, that expressing one item of a commonly associated group or series excludes another left unmentioned, is only a guide, whose fallibility can be shown by contrary indications that adopting a particular rule or statute was probably not meant to signal any exclusion of its common relatives.¹⁸ Preambles do not determine a rule's terms but are simply a useful aid for interpreting the rule when there is ambiguity.¹⁹

In the absence of a clear legislative mandate, Advisory Committee Notes provide a reliable source of insight into the meaning of the Federal Rules of Criminal Procedure.²⁰ A state supreme court strives to interpret criminal rules to avoid any conflict with the constitutional rights of the defendant.²¹ Unless a contrary interpretation would frustrate an evident legislative intent, rules of criminal procedure are governed by the fundamental principle that such rules are strictly construed against the State.²²


CUMULATIVE SUPPLEMENT


Cases:

When construing both statutes and court rules, the Supreme Court applies fundamental principles of statutory construction, the cornerstone of which is the rule that the best and most reliable index of a statute's meaning is its language and, when the language is clear and unequivocal, it is determinative of the statute's construction.  [Duff v. Lee](#), 476 P.3d 315 (Ariz. 2020).

Supreme Court construes court rules using the same means and canons of construction used to interpret statutes. [State v. Van Voast](#), 2022 Ark. 195, 654 S.W.3d 59 (2022).

When interpreting rules promulgated by the court, principles of statutory construction apply. [Interest of AA](#), 150 Haw. 270, 500 P.3d 455 (2021).

Appellate Court must apply the supreme court rules as written.  [Waukegan Hospitality Group, LLC v. Stretch's Sports Bar & Grill Corporation](#), 2022 IL App (2d) 210179, 462 Ill. Dec. 1043, 208 N.E.3d 590 (App. Ct. 2d Dist. 2022), appeal allowed, 2023 WL 2753624 (Ill. 2023).

A court's goal when interpreting Maryland Rules is always to discern the purpose, the ends to be accomplished, or the evils to be remedied.  [Lopez-Villa v. State](#), 478 Md. 1, 271 A.3d 1228 (2022).

In interpreting rules and orders adopted by the Supreme Judicial Court, courts rely upon basic principles of statutory construction. [Graycor Construction Company Inc. v. Pacific Theatres Exhibition Corp.](#), 193 N.E.3d 1083 (Mass. 2022).

[END OF SUPPLEMENT]

Footnotes

- 1 Ariz.—*Bobby G. v. Arizona Dept. of Economic Sec.*, 219 Ariz. 506, 200 P.3d 1003 (Ct. App. Div. 2 2008).
Conn.—*State v. Anthony D., Sr.*, 320 Conn. 842, 2016 WL 1425728 (2016).
Ill.— *People v. Salem*, 2016 IL 118693, 47 N.E.3d 997 (Ill. 2016).
N.D.—*Sanderson v. Walsh County*, 2006 ND 83, 712 N.W.2d 842 (N.D. 2006).
Tenn.—*Tuetken v. Tuetken*, 320 S.W.3d 262 (Tenn. 2010).
W. Va.—*Pristine Pre-Owned Auto, Inc. v. Courier*, 2016 WL 857768 (W. Va. 2016).
- 2 N.J.—*Robertelli v. New Jersey Office of Atty. Ethics*, 2016 WL 1562806 (N.J. 2016).
- 3 Conn.—*Morera v. Thurber*, 162 Conn. App. 261, 131 A.3d 1155 (2016).
Operation and effect of mandatory and directory court rules, see § 168.
- 4 R.I.— *UAG West Bay AM, LLC v. Cambio*, 987 A.2d 873 (R.I. 2010).
Wis.—*State v. Henley*, 2010 WI 12, 322 Wis. 2d 1, 778 N.W.2d 853 (2009).
- 5 D.C.—*Washington v. U.S.*, 884 A.2d 1080 (D.C. 2005).
- 6 N.D.—*Sanderson v. Walsh County*, 2006 ND 83, 712 N.W.2d 842 (N.D. 2006).
- 7 Ill.—*People v. King*, 349 Ill. App. 3d 877, 283 Ill. Dec. 425, 807 N.E.2d 1266 (2d Dist. 2004).
- 8 Ala.— *Ex parte Haynes Downard Andra & Jones, LLP*, 924 So. 2d 687 (Ala. 2005), as modified on denial of reh'g, (Sept. 30, 2005).
- 9 Ill.—*People v. King*, 349 Ill. App. 3d 877, 283 Ill. Dec. 425, 807 N.E.2d 1266 (2d Dist. 2004).
- 10 Ala.— *Ex parte Haynes Downard Andra & Jones, LLP*, 924 So. 2d 687 (Ala. 2005), as modified on denial of reh'g, (Sept. 30, 2005).
- 11 Ill.—*People v. King*, 349 Ill. App. 3d 877, 283 Ill. Dec. 425, 807 N.E.2d 1266 (2d Dist. 2004).
- 12 Ariz.— *State v. Aguilar*, 209 Ariz. 40, 97 P.3d 865 (2004).
- 13 Tenn.—*State v. Crowe*, 168 S.W.3d 731 (Tenn. 2005).
- 14 Ill.—*People v. King*, 349 Ill. App. 3d 877, 283 Ill. Dec. 425, 807 N.E.2d 1266 (2d Dist. 2004).
- 15 Pa.—*Dream Pools of Pennsylvania, Inc. v. Baehr*, 326 Pa. Super. 583, 474 A.2d 1131 (1984).

Balancing test

Liberality with which the rules are construed must be balanced against the requisites of fair notice to adverse parties and strict adherence to statutorily prescribed procedures.

Ala.— *Simpson v. Jones*, 460 So. 2d 1282 (Ala. 1984).

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Mo.— *Harbison v. Chicago, R. I. & P. Ry. Co.*, 327 Mo. 440, 37 S.W.2d 609, 79 A.L.R. 1 (1931).

Jury charge

Rule governing trial judge's reading of charge, instructions, special issues, definitions, and explanatory instructions to jury states procedural rather than substantive rule of law and should be liberally construed to expedite disposition of business and to decrease number of technical reversals.

Tex.—*Pate v. Texline Feed Mills, Inc.*, 689 S.W.2d 238 (Tex. App. Amarillo 1985), writ refused n.r.e., (June 19, 1985).

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U.S.— *U.S. v. Cooper*, 135 F.3d 960 (5th Cir. 1998).

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U.S.— *U.S. v. Vonn*, 535 U.S. 55, 122 S. Ct. 1043, 152 L. Ed. 2d 90 (2002).

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N.Y.— *People v. Garson*, 6 N.Y.3d 604, 815 N.Y.S.2d 887, 848 N.E.2d 1264 (2006).

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U.S.— *U.S. v. Vonn*, 535 U.S. 55, 122 S. Ct. 1043, 152 L. Ed. 2d 90 (2002).

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Iowa— *State v. Kukowski*, 704 N.W.2d 687 (Iowa 2005).

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Conn.— *State v. Pare*, 253 Conn. 611, 755 A.2d 180 (2000).

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